

IP 07-0317-C B/K White v Fisher  
Magistrate Tim A. Baker

Signed on 03/07/2008

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

THOMAS WHITE JR,	)	
LINDA WHITE,	)	
	)	
Plaintiffs,	)	
vs.	)	NO. 1:07-cv-00317-SEB-TAB
	)	
AMBERS FISHER,	)	
M&D TRANSFER, LLC,	)	
	)	
Defendants.	)	

<sup>1</sup>This “updated” demand and offer is set forth in a March 4, 2008, letter submitted to the Magistrate Judge in compliance with the Court’s January 16, 2008, order. [Docket No. 28.]

the standoff at hand is properly attributable to Plaintiffs and/or their counsel.

Of course the Court cannot require that parties lower their settlement demands or increase their settlement offers. However, when parties request assistance in resolving their disputes by way of a Court-supervised settlement conference, the Court is well within its authority to require the parties to negotiate in good faith prior to the conference so as to utilize everyone's time most efficiently and provide the best opportunity to achieve settlement. *See Cole v. Wodziak*, 169 F.3d 486, 489 (7th Cir. 1999) ("Exaggerated claims impede settlement and consume scarce judicial resources."); *Trippee Mfg. Co. v. Am. Power Conservation Corp.*, 46 F.3d 624, 629 (7th Cir. 1995) ("Federal district courts have the inherent power to administer their dockets so as to conserve scarce judicial resources."); *Resolution Trust Corp. v. Platt*, 853 F. Supp. 294, 297 (S.D. Ill. 1993) ("This Court, as well as most federal courts in the country, is overburdened by a crowded docket. Therefore, 'the promotion of settlement is, as a practical matter, 'an absolute necessity.'"), citing *Alvarado Partners, L.P. Mehta*, 723 F. Supp. 540, 551 (D. Colo. 1999), quoting *Nelson v. Bennett*, 662 F. Supp. 1324 (E.D. Cal. 1987)).

Attorneys who respect the goal of securing "the just, speedy, and inexpensive determination of every action" embodied in Fed. R. Civ. P. 1 should work to narrow the gap on their own prior to a Court-supervised settlement conference. This means making good faith efforts to reduce the monetary gap between the parties' settlement positions, reducing the number of legal issues to be resolved, or taking other steps that increase the likelihood of settlement. It certainly means that counsel will abide by the order setting the settlement conference requiring an updated settlement demand. Failure to obey a pretrial order, or failure to participate in a pretrial conference in good faith, may result in sanctions, which may include an order requiring the attorney or a party (or both) to pay reasonable expenses and attorney's fees

incurred. Fed. R. Civ. P. 16(f); *see also Guillory v. Dotmar Industries*, 95 F.3d 1320, 1334 (5th Cir. 1996) (“We cannot allow parties to waste the court’s dispute resolution assets by pretending to support settlement while never intending to settle the case.”)

Counsel should not use an upcoming settlement conference as an excuse to postpone meaningful settlement discussions. Such discussions in advance of a settlement conference might narrow the focus of the dispute or even eliminate it entirely. As a result of Plaintiff’s inexplicable failure to provide an updated settlement demand, this opportunity has been lost. The Court declines to impose sanctions under these circumstances. However, based upon the foregoing, the parties shall show cause by March 12, 2008, why the March 17, 2008, settlement conference should not be vacated.

Dated: March 7, 2008

/s/ Tim A. Baker  
Tim A. Baker  
United States Magistrate Judge  
Southern District of Indiana

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